IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.MC.No. 1169 of 2007()

ST.6654/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONER:

MUKUNDAN S/O. SUBRAMONIAN
AVINIPULLILHOUSE, SANTHIPURAM P.O.
SREENARAYANAPURAM VILLAGE
KODUNGALLUR TALUK, THRISSUR.

BY ADV. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD

RESPONDENTS:

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1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

2. MOHANAN NAIR, S/O. KOCHUKUTTY AMMA
KOOTTALA HOUSE, PERINJANAM VILLAGE
KODUNGALLUR TALUK, THRISSUR.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1169 of 2007

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Dated this the 12th day of April, 2007

O R D E R

The petitioner was an accused in a prosecution under Section 138 of the N.I. Act. The prosecution has now come to an end. The petitioner was not available for trial for some period of time and during this period of time coercive action was taken to secure the presence of the petitioner. The petitioner now understands that there has been an attachment of his property. He was not aware of such attachment earlier. On coming to know such attachment, he has rushed to this Court with this petition under Section 482 Cr.P.C.

2. Did the petitioner move the learned Magistrate under Section 84 Cr.P.C. to lift the attachment? Evidently he has not some the same. The learned counsel for the petitioner submits that if the petitioner approaches the learned Magistrate with an application to lift the attachment, it may not be considered because it is barred by limitation. Did he make an application for condonation of delay as held to be permissible in **Pharma Kuries (P) Ltd. v. T.J. Soju & Ors** (2006 (3) KLJ 585). He has not done that also.

3. The learned counsel for the petitioner ultimately submits that a direction may be issued to the learned Magistrate to consider such application under Section 84 Cr.P.C. when filed, in accordance with law. No directions appear to be necessary. Every court is bound to consider such application if properly filed. Having not exhausted that remedy, I find no merit in this petition filed under Section 482 Cr.P.C.

4. This Crl.M.C. is dismissed with the above observations.

5. Hand over copy to the learned counsel for the petitioner.

(R. BASANT)
Judge

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